

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DAVID LOPEZ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 1:18-cv-6828
	)	
NORFOLK SOUTHERN RAILWAY	)	
COMPANY, d/b/a "NORFOLK	)	
SOUTHERN"; J.B. HUNT TRANSPORT	)	
INC., d/b/a "J.B. HUNT",	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

NOW COMES the Defendant, Norfolk Southern Railway Company, d/b/a Norfolk Southern ("Norfolk Southern"), by and through its attorneys, Mary Louise Kandyba and Edward A. DeVries, Wilson Elser Moskowitz Edelman & Dicker, LLP, and for its Notice of Removal in this case, states as follows:

1. Norfolk Southern was named as a Defendant in a lawsuit filed on October 24, 2017, in the Circuit Court of Cook County, Illinois, captioned as *David Lopez v. Norfolk Southern Railway Company, d/b/a Norfolk Southern, J.B. Hunt Transport Inc., d/b/a J.B. Hunt*, Case No. 17 L 010777. The lawsuit sought damages from Norfolk Southern and J.B. Hunt Transport Inc. (J.B. Hunt) under the Federal Employers' Liability Act (FELA), 45 U.S.C. § 51 et seq., for an injury sustained by the Plaintiff while employed by a contractor of Norfolk Southern. A true and correct copy of that Complaint is attached hereto as Exhibit A.

2. On September 27, 2018, Plaintiff filed an Amended Complaint which eliminated the counts under the FELA. This eliminated the prohibition on removal contained in 28 U.S.C. § 1445(a). A true and correct copy of the Amended Complaint is attached hereto as Exhibit B.

The Amended Complaint purports to state claims for personal injury against Norfolk Southern and J.B. Hunt under the common law of the State of Illinois on a negligence theory.

3. The Amended Complaint is silent regarding the citizenship of the parties. However, based on information obtained as a result of written discovery conducted to date in the Illinois action, Plaintiff is a citizen of the State of Illinois. Norfolk Southern is a citizen of the State of Virginia, as Virginia is its state of incorporation and the location of its principal place of business. An Affidavit executed by Kinsha O. Swain regarding the citizenship of Norfolk Southern is attached hereto as Exhibit C. J.B. Hunt is a Georgia corporation with its principal place of business in Arkansas. An Affidavit executed by Erin Campbell regarding the citizenship of J.B. Hunt is attached hereto as Exhibit D.

4. Therefore, there is complete diversity between the parties. Moreover, J.B. Hunt has consented to the removal in accordance with 28 U.S.C. § 1446(b)(2)(A).

5. The Amended Complaint states that Plaintiff is seeking damages in excess of \$50,000.00 in this action. However, based on written discovery in this cause conducted in the Illinois state court action, and on information and belief, the amount in controversy is in excess of \$75,000, giving this court subject matter jurisdiction over this action in accordance with 28 U.S.C. § 1332(a)(1).

6. This Notice of Removal is timely filed within 30 days of the date on which Norfolk Southern was served with Plaintiff's Amended Complaint, and within one year of the original filing of Plaintiff's Complaint. 28 U.S.C. § 1446(b)(3); 28 U.S.C. § 1446(c)(1).

7. Cook County, Illinois lies within the Northern District of Illinois, and thus, this Court is the appropriate venue for removal. 28 U.S.C. §§ 1441(a) and 1446. Pursuant to 28 U.S.C. § 1446(d), Norfolk Southern has served a copy of the Notice of Removal on Plaintiff and

on the attorney for Co-Defendant, J.B.Hunt, and has filed a copy of the Notice of Removal with the Clerk of the Circuit Court of Cook County, Illinois.

WHEREFORE, the Defendant, Norfolk Southern Railway Company, states that removal of this cause is proper.

Respectfully Submitted,

**NORFOLK SOUTHERN RAILWAY  
COMPANY**

By: /s/ Mary Louise Kandyba  
One of its Attorneys

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that a true and correct copy of the foregoing instrument was served on the attorney of record at their respective business addresses indicated below:

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via ☐ hand delivery, ☐ facsimile, ☐ overnight-next day delivery, ☒ **electronic filing** and by depositing same in the US Mail at 55 West Monroe, Chicago, Illinois 60603, with proper postage prepaid, at or before the hour of 5:00 p.m., on this 11<sup>th</sup> day of October, 2018.

/s/ Mary Louise Kandyba